

BEFORE THE UNITED STATES
ATOMIC ENERGY COMMISSION

In the Matter of)
)
CONSOLIDATED EDISON COMPANY)
OF NEW YORK, INC.) Docket No. 50-286
)
(Indian Point Station, Unit)
No. 3))

APPLICANT'S ANSWER TO
NOTICE OF HEARING

To: Samuel W. Jensch, Esq., Chairman
Dr. John C. Geyer
Mr. R. B. Briggs
Mr. Ernest E. Hill
Max D. Paglin, Esq.

In accordance with Section 2.705(a) of the Commission's Rules of Practice, 10 CFR § 2.705(a) (1972), Consolidated Edison Company of New York, Inc. ("Applicant") submits the following Answer to the Notice of Hearing on a Facility Operating License issued on February 28, 1973 by the special Atomic Safety and Licensing Board ("Intervention Board"). 38 Fed. Reg. 6094 (1973); see Atomic Safety & Licensing Board Panel Order dated February 9, 1973. This Answer is submitted to the board designated by the Chairman of the Atomic Safety and Licensing Board Panel to conduct the hearing on issuance of an operating license ("Licensing Board").

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Applicant has also this date filed with the Intervention Board a Motion for Reconsideration of the Memorandum and Order dated February 28, 1973.

Applicant's position is that the information contained in its Application for Licenses, as amended, and its Environmental Report, together with further information to be supplied at the hearing on such matters as the substantial completion of the facility, and compliance with the requirements of Part 140 of the Commission's Regulations, 10 CFR Part 140 (1972), is sufficient to warrant the issuance of a facility operating license.

Applicant will appear at and participate in all prehearing conferences and hearing sessions which may be ordered by the Licensing Board.

With respect to the parties to this proceeding, Applicant notes that the Intervention's Board's Notice and Memorandum and Order of February 28, 1973 purport to delegate to the Licensing Board the duty to rule on any belated attempts of Cortlandt Conservation Association, Inc. and Mary Hays Weik to perfect their petitions to intervene. Applicant's position is that this ruling of the Intervention Board conflicts with Section 2.714(a) of the Commission's Rules of Practice, 10 CFR § 2.714(a) (1972), and with the February 9, 1972 Board Panel Order creating the Intervention Board, and

hence was ultra vires that Board. The Intervention Board was not authorized to delegate its jurisdiction to the Licensing Board. Further, there has been no showing of good cause for allowing these parties, in effect, to file late, in violation of the Commission's October 19, 1972 Notice of Consideration of Issuance of Facility Operating License and Notice of Opportunity for Hearing. 37 Fed. Reg. 22816 (1972).

For these reasons, Applicant submits that the Licensing Board is without jurisdiction to rule on any additional pleadings from these two petitioners. Alternatively, if the Licensing Board finds it does have such jurisdiction, Applicant prays that the petitions be denied for failure to comply with the Commission's Notice and Rules of Practice.

Respectfully submitted

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Of Counsel.

March 8, 1973

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CERTIFICATE OF SERVICE

I hereby certify that I have served copies of the foregoing documents entitled "Motion for Reconsideration" and "Applicant's Answer to Notice of Hearing" by mailing copies thereof first class and postage prepaid, to each of the following persons this 8th day of March, 1973.

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